STATE OF MICHIGAN

IN THE SUPREME COURT

CITY OF HUNTINGTON WOODS, a Michigan Municipal Corporation and CITY OF PLEASANT RIDGE, a Michigan Municipal Corporation,

Plaintiffs/Counter-Defendants/Appellants,

v

CITY OF OAK PARK, a Michigan Municipal Corporation, and 45TH DISTRICT COURT, a division of the State of Michigan, Jointly and severally,

Defendants/Counter-Plaintiffs/Appellees.

/

Supreme Court No. 152035

Court of Appeals No. 321414

Oakland County Circuit Court
No. 13-135842-CZ

MARK GRANZOTTO, P.C.
By: Mark Granzotto (P31492)
Attorneys for Appellants
2684 Eleven Mile, Suite 100
Berkley, MI 48072
(248) 546-4649

SECREST WARDLE
By: William P. Hampton (P14591)
Nancy Cooper Green (P39215)
Attorneys for Appellee City of Oak Park
2600 Troy Center Drive, P.O. Box 5025
Troy, Michigan 48007-5025
(248) 851-9500
whampton@secrestwardle.com
ncgreen@secrestwardle.com

DICKINSON WRIGHT PLLC
By: Peter H. Webster (P48783)
Attorneys for Appellee 45th District Court
2600 W. Big Beaver, Suite 300
Troy, MI 48084
248-433-7200
pwebster@dickinsonwright.com

/

APPELLEE OAK PARK'S
RESPONSE TO APPLICATION FOR LEAVE TO APPEAL

TABLE OF CONTENTS

INDEX OF AUTHORITIES

CASES

STATUTES

COURT RULES

MISCELLANEOUS

STATEMENT OF JURISDICTION

The Supreme Court has jurisdiction to consider the Application for Leave to Appeal pursuant to MCR 7.302(A)(2) which provides that the Supreme Court may review a case by leave to appeal after decision by the Court of Appeals. The Court of Appeals issued its decision on June 11, 2015.

COUNTER-STATEMENT OF QUESTIONS

I. SHOULD THIS COURT GRANT LEAVE TO APPEAL TO CONSIDER WHETHER THE COURT OF APPEALS AND TRIAL COURT ERRED IN APPLYING THE ESTABLISHED RULES OF STATUTORY CONSTRUCTION TO THE PROVISIONS OF THE REVISED JUDICATURE ACT WHEN EACH HELD THAT THE APPELLANTS AS FUNDING UNITS FOR A DISTRICT COURT OF THE THIRD CLASS HAVE A STATUTORY DUTY TO CONTRIBUTE TO THE EXPENSES OF OPERATING THE 45TH DISTRICT COURT?

DEFENDANT-APPELLEE CITY OF OAK PARK SAYS "NO."

DEFENDANT-APPELLEE 45TH DISTRICT COURT SAYS "NO."

PLAINTIFF-APPELLANTS SAY "YES."

II. SHOULD THIS COURT GRANT LEAVE TO APPEAL TO CONSIDER WHETHER THE COURT OF APPEALS AND TRIAL COURT ERRED BY HOLDING THAT THE APPELLANTS CANNOT ESTABLISH THE EXISTENCE OF A VALID CONTRACT THAT LIMITED THEIR FINANCIAL OBLIGATION FOR OPERATING EXPENSES OF THE DISTRICT COURT TO THE REVENUE SHARING PROVISION OF THE REVISED JUDICATURE ACT FOUND IN MCL 600.8379 CONSIDERING THAT THE APPELLANTS CONCEDED THAT THERE WAS "NO AGREEMENT AMONGST THE COMMUNITIES AS CONTEMPLATED BY MCL 600.8104(3)" IN THEIR APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF APPEALS?

DEFENDANT-APPELLEE CITY OF OAK PARK SAYS "NO."

DEFENDANT-APPELLEE 45TH DISTRICT COURT SAYS "NO."

PLAINTIFF-APPELLANTS SAY "YES."

III. SHOULD THIS COURT GRANT LEAVE TO APPEAL TO CONSIDER WHETHER THE COURT OF APPEALS AND TRIAL COURT ERRED IN THE APPLICATION OF THE ESTABLISHED RULES OF STATUTORY CONSTRUCTION WHEN EACH HELD THAT THE MONIES ASSESSED AND COLLECTED FOR THE BUILDING AND RETIREE HEALTHCARE FUND ARE NOT "COSTS" UNDER MCL 600.4801(a); RATHER, SUCH ASSESSMENTS COME WITHIN THE STATUTORY DEFINITION OF "FEE" AS FOUND IN MCL 600.4801(b) AND ARE NOT SUBJECT TO THE ONE-THIRD REVENUE DISTRIBUTION UNDER MCL 600.8379?

DEFENDANT-APPELLEE CITY OF OAK PARK SAYS "NO."

DEFENDANT-APPELLEE 45TH DISTRICT COURT SAYS "NO."

PLAINTIFF-APPELLANTS SAY "YES."

APPELLEE'S CONCISE STATEMENT OF MATERIAL PROCEEDINGS AND FACTS

At the heart of this dispute between the funding units for the 45th Judicial District and the Court is the misconstruction of pertinent provisions of the Revised Judicature Act (RJA) by the Appellants and their long standing history of evading their statutory responsibility to finance, maintain and operate the 45th District Court. This has resulted in a disproportionate financial burden on one of the District Funding Units, the City of Oak Park, and a District Court that has been chronically underfunded since its inception.

In June 1974, Public Act 145 of 1974 was adopted which mandated the establishment of the 45-B Judicial District, a district of the third class consisting of the cities of Huntington Woods, Oak Park, Pleasant Ridge, and the Township of Royal Oak. MCL 600.8123. Section 8251 of the Act mandated that in districts of the third class, the court shall sit at each city having a population of 3,250 or more and within each township having a population of 12,000 or more and at other places as the judges of the district determine. However, Section 8251 also provided that the court is not required to sit in any political subdivision ***if the governing body of that subdivision by resolution and the court agree*** that the court shall not sit in the political subdivision. The statute did not give the City of Oak Park any input into the decision of another funding unit within the judicial district waiving the requirement that the court sit within its own geographic boundaries.

Consequently, on December 10, 1974, the City of Pleasant Ridge adopted a resolution to waive the requirement that the court sit within Pleasant Ridge. The **preamble** provided that "the City of Pleasant Ridge will not incur any expenses in connection with the operation of the new district court and will receive one-third of all fines assessed which originated in the City of Pleasant Ridge. There is no mention of any expense sharing agreement between the District Funding Units, nor is there any mention that the City of Oak Park agreed to incur all expenses for

operating and maintaining the Court incurred by Pleasant Ridge or any other District Funding Unit of the 45-B Judicial District. **Exhibit 4.**

On December 17, 1974, the City of Huntington Woods adopted a resolution to waive the requirement that the Court sit within Huntington Woods. The resolution is limited to waiving the requirement that the Court sit within Huntington Woods. It did not address the responsibility of paying for the expenses of operating and maintaining the Court. The **minutes** of the meeting reflect an explanation by a Mr. Wilfong that "if the District Court were held in Huntington Woods, the City would receive one hundred percent of fines levied rather than thirty-three and one-third percent it would receive if Huntington Woods cases were held in Oak Park." Again, there is no mention of any expense sharing agreement between the District Funding Units and no mention that the City of Oak Park agreed to incur all expenses for operating and maintaining the Court incurred by the City of Huntington Woods. **Exhibit 5.**

The City of Oak Park did not adopt a resolution to waive the requirement that the Court sit in Oak Park. The 45-B District Court did sit in the City of Oak Park and used the Oak Park City Council Chambers for the courtroom.

Since that time, the judicial district has been re-named the 45th Judicial District, however, it is still comprised of the same municipalities. The 45th District Court has continued to operate in an Oak Park municipal facility and does not sit in the geographic boundaries of any other funding unit within the judicial district of the third class.

The District Funding Units of the 45th Judicial District never entered into an expense sharing agreement as permitted by RJA Section 8104. Not only does the record reflect there was no expense sharing agreement, Appellants conceded in their Application for Leave to File an Interlocutory Appeal to the Court of Appeals, on pages iv and 6 that ***"there is no agreement***

amongst the communities as contemplated by MCL 600.8104(3).” Specifically, Appellants stated:

> **Issue 1**. Where the Cities of Huntington Woods and Pleasant Ridge waived the requirement for the District Court to sit within their political jurisdictions in 1974 upon reliance of the application of MCL 600.8379, does the Oakland County Circuit Court have the authority to require the communities of Huntington Woods and Pleasant Ridge to follow MCR 8.201(A) when there is no agreement amongst the communities as contemplated by MCL 600.8104(3) and, therefore, in effect render MCL 600.8379 void and of no effect (emphasis added)?

Despite that the Appellants conceded that there was ***“no agreement amongst the communities as contemplated by MCL 600.8104(3),”*** the Appellants have argued that this Court should grant leave to appeal because the Court of Appeals erred in concluding that the parties did not enter into a binding agreement for the funding of the District Court. The argument is disingenuous and not supported by the record. Oak Park has sought financial assistance from the other District Funding Units and on several occasions attempted to negotiate an agreement or memorandum of understanding - all to no avail. There simply was no agreement between the Funding Units and the dispute has festered for more than two (2) decades. **Exhibit 6.**

In 1983, the Oak Park City Council adopted Resolution CM-04-290-83, which stated that since January 1, 1975, the City of Oak Park has borne the total expense of operating the Court. **Exhibit 6, p. 9-12.** The Resolution also stated that the subsidy from the Oak Park General Operating Fund required to maintain the operations of the Court had grown from $15,063 to an estimated $249,114 for the 1983-84 fiscal year. Oak Park made a plea to the City of Huntington Woods, City of Pleasant Ridge and Township of Royal Oak that each provide court facilities within each of their political subdivisions, and to provide for the maintenance, financing and operation of the 45-B District Court within their political subdivisions as required by Section 8104 of Public Act 154; ***or in the alternative that they enter into an agreement with the City of Oak Park to share all of the expenses of maintaining, financing and operating the 45-B District***

Court at a location within the boundaries of the City of Oak Park. **Exhibit 6, p. 9-12.** The Appellants did neither. There clearly was no agreement between the parties at that time or since. This long standing dispute over financing of the District Court has resulted in Oak Park alone providing the financial support of the District Court for the 45th Judicial District since the Court's inception.

Despite that the Revised Judicature Act found in MCL 600.8271 requires the governing body of ***each*** District Funding Unit to annually appropriate funds for the operation of the District Court, and MCR 8.201 requires the expenses of the District Court to be assessed according to annual case load, in practice at the 45th District Court, the Court has simply disbursed one-third of the fines and costs collected to the cities of Huntington Woods and Pleasant Ridge, and to the Township of Royal Oak pursuant to MCL 600.8379; however, did not assess any of the expenses of operating the District Court to any of the other District Funding Units. Oak Park has continuously provided in-kind services for the Court, allowed use of its municipal facilities for the Court, provided financial resources when there has been a revenue shortfall and when there have been budget overages. Further, the other District Funding Units have not annually appropriated funds for the operation of the District Court. As a single funding unit by default, the City of Oak Park cannot adequately finance the Court. Consequently, the Court has been chronically underfunded for many years. **Exhibits 5, 4, 12, 14, and 15 to Oak Park's Brief on Appeal in the COA.**

The Appellants have argued that they are not District Funding Units responsible for financially supporting the operating expenses of the Court because the Court does not sit in their respective political jurisdictions, ignoring the clear language of the RJA. See, RJA sections 600.8103, 600.8104, 600.8123, 600.8271, 600.8621.

Further, they assert that their responsibility to finance, maintain, and operate the District Court is limited to the two-thirds (2/3) distribution of fines and costs collected on cases originating in their political jurisdiction which is distributed to Oak Park, who then applies all amounts received to the costs of operation of the District Court. Again, Appellants ignore the RJA where it very specifically and unequivocally mandates that "The governing body of each district funding unit ***shall*** annually appropriate, by line-item or lump-sum budget, funds for the operation of the district court in that district" (emphasis added). MCL 600.8271. The Appellants have never complied with this legislative mandate.

In 1995 during budget hearings, the need for retiree health care and adequate court facilities was discussed. The Oak Park City Council and the 45-B District Court discussed adding a $5 fee per ticket to cover the cost of retiree health care for District Court retirees. They also discussed adding a $5 fee to fund construction of a new court facility. **Exhibit 7, p. 2.** Assessing the additional fees was implemented by the Court and over the years the funds collected were used for Court retiree health care and Court building improvements.

In September 1995, the State Court Administrative Office (SCAO) issued a report delineating the inadequacies of the Court facilities. These included noncompliance with current building standards for occupancy and fire safety, and inaccessibility of areas of the building for the disabled. Oak Park created a municipal building construction capital fund to account for expenditures made to construct a new district court building. This was funded by the $5 per ticket charge implemented by the 45-B District Court. Oak Park also created an internal service fund to fund 45-B District Court retiree health care benefits. The revenues were collected through an additional $5 per ticket charge added to violation fees. **Exhibit 8, p. 90-93.**

In 2007, the Court presented a Resolution, and the Oak Park City Council unanimously passed the Resolution to increase the per ticket levies for the building fund and the retiree health

care fund from $5 to $10. The Resolution also imposed $125 in costs for certain misdemeanors, to be allocated for the building fund. See, **Exhibit 9, p. 3, 5**.

The funds from the fees collected were spent on the expenses for which they were collected: court retiree health care Court building improvements. Unfortunately, the fees collected were consistently insufficient to cover the expenses; therefore, Oak Park alone has subsidized these costs as well.

In fiscal year (FY) 2012-2013 (beginning July 1, 2012), unbeknownst to Oak Park, the 45th District Court began distributing one-third of the building fund and retiree health care fund assessments to Appellants, in the same manner that costs and fines are distributed. Oak Park contends this distribution to the Appellants was in error because the funds were collected as specifically designated fees for Court building and Court retiree health care expenses that must be accounted for in the respective capital improvement fund and internal service fund accounts and must be spent on the expenses for which they were levied. Therefore it is improper to distribute these monies as fines and costs.

In October 2012, SCAO issued a report in which it found that there was no agreement in place for distribution of fines and costs to political subdivisions other than Oak Park. **Exhibit 10, p. 1.** In addition, the report states:

> The court distributed court costs, with the exception of court costs titled as operational costs, using the method of one-third to the political subdivision whose ordinance was violated and two-thirds to the city of Oak Park during the review period. It should be noted that in fiscal year 2013, the court started distributing the operational costs using the method that was previously used for all other court costs. **Exhibit 10, p. 1.**

The Court of Appeals noted that the SCAO report reviewed the history of the collection of court revenue beginning in August 1995. The 45th District Court used an OPCS cash code for receipt of these funds. From FY 1996 to FY 2012, the entire amount of cash received under these codes was distributed to Oak Park, which allocated the distributions to the building fund and

retiree healthcare fund. Beginning in May 2007, the 45-B District Court began collecting fees on misdemeanor violations using an OPBF cash code for receipt of the funds. For FY 2007 through FY 2012, the entire amount received under the OPBF cash code was distributed to Oak Park which allocated the distributions to the building fund and retiree healthcare fund. SCAO calculated the amounts collected from violations occurring in Plaintiffs' political subdivisions and distributed to Oak Park under the OPCS and OPBF codes for the period from FY 1996 through FY 2012. The report attempted to provide a more detailed breakdown of amounts contributed to the building fund and retiree health care fund per fiscal year for each political subdivision. However, the scope of the report was limited to an examination of the Court's month-end spreadsheets and the automated system revenue reports that were available. The report contained a disclaimer on pages 2, 4, 5, 6, and 7 revealing its unreliability wherein the SCAO states:

> "Please note information related to the actual contributions was not available for all of the reviewed fiscal years. The contributions were calculated using the JIS revenue amounts, splitting the OPCS revenues 50/50 between the building fund and retiree's health care fund, and allocating 100% of the OPBF revenues to the building fund." **Exhibit 10.**

Further, the report was merely an accounting based on limited data and was not a legal analysis of whether the fees assessed and designated for the building and health care expenses were a fee or a cost.

Subsequently, on May 13, 2013, Appellants, together with Royal Oak Township, sent correspondence to Oak Park's City Manager asserting that Oak Park "knowingly received and retained certain property owned by" Appellants, namely "various funds including a building fund, a retiree health care fund, and a serious misdemeanor fund." Appellants demanded return of the fees collected by the Court over the 18 year period for Court retiree health care and building improvements, and cited SCAO's accounting of $116,696.33 of Pleasant Ridge's property, and $251,021.93 of Huntington Woods's property. **Exhibit 11.** In response, the Oak Park City Council

passed a Resolution declaring that money collected by the 45th District Court and transmitted to the building fund would be used for improvements for the 45th District Court, and money collected and transmitted to the retiree healthcare fund would be used only for the costs of retiree healthcare for district court employees. **Exhibit 12.** Oak Park did not grant Appellants' demand which led to the instant litigation.

On August 22, 2013, the cities of Huntington Woods and Pleasant Ridge filed a Complaint seeking a monetary judgment in the amount of $362,718.26 plus costs, interest and actual reasonable attorney fees against the 45th District Court and the City of Oak Park for allegedly failing to disburse to them one-third of the *fees* collected by the 45th District Court ***since 1995*** citing MCL 600.8379 as support. The Complaint alleged a violation of MCL 600.8379; statutory conversion; breach of contract-third party beneficiary; and unjust enrichment on behalf of the cities of Huntington Woods and Pleasant Ridge.

In response, on September 26, 2013, the City of Oak Park filed a Counter-Complaint seeking declaratory judgment requesting the Trial Court to declare that the cities of Huntington Woods, Oak Park, and Pleasant Ridge are all District Funding Units for the 45th District Court; and declare as follows:

1. Each unit is required to contribute to the expenses of maintaining, financing, and operating the District Court for their district; and

2. Each unit's responsibility to appropriate funds for the District Court is not limited by the amount of fine and cost revenue collected by the Court and allocated pursuant to MCL 600.8379; and

3. That the cities of Huntington Woods and Pleasant Ridge comply with MCL 600.8271(1) forthwith and annually appropriate funds for the maintenance, financing, and operation of the 45th District Court; and

4. That the fees assessed, designated, and collected by the District Court for court building improvements held in Fund No. 470 entitled Municipal Building Construction Fund, and those specifically designated for court retiree health care expenses held by the City of Oak Park in the Retiree

Health Care-District Court Fund No. 678, are not subject to the allocation formula for fines and costs specified in MCL 600.8379(3); and

5. Dismissal of the Complaint filed by the cities of Huntington Woods and Pleasant Ridge in its entirety and with prejudice; and

6. That all funds incorrectly disbursed to the cities of Huntington Woods and Pleasant Ridge during fiscal year 2012 be reimbursed to the appropriate fund for use in the manner for which the fees were assessed and collected.

On December 23, 2013, the City of Oak Park filed a Motion for Summary Disposition asking the Court to grant summary disposition to the City of Oak Park and enter an order declaring that:

1. The cities of Huntington Woods, Oak Park, and Pleasant Ridge are all District Funding Units for the 45th District Court;

2. As District Funding Units, each unit is required to contribute to the expenses of maintaining, financing, and operating the District Court for their district;

3. That the responsibility to appropriate funds for the District Court is not limited by the amount of fine and cost revenue collected by the Court and allocated pursuant to MCL 600.8379;

4. That the cities of Huntington Woods and Pleasant Ridge comply with MCL 600.8271(1) forthwith and annually appropriate funds for the maintenance, financing, and operation of the 45th District Court;

5. That the fees assessed, designated, and collected by the District Court for court building improvements held in Fund No. 470 entitled Municipal Building Construction Fund, and those specifically designated for court retiree health care expenses held by the City of Oak Park in the Retiree Health Care-District Court Fund No. 678, are not subject to the allocation formula for fines and costs specified in MCL 600.8379(3);

6. Dismissal of the Complaint filed by the cities of Huntington Woods and Pleasant Ridge in its entirety and with prejudice; and

7. That all funds incorrectly disbursed to the cities of Huntington Woods and Pleasant Ridge during fiscal year 2012 be reimbursed to the appropriate fund for use in the manner for which the fees were assessed and collected.

On January 22, 2014, the 45th District Court concurred in the Motion for Summary Disposition filed by Oak Park. On February 12, 2014, a hearing on the Motion for Summary

Disposition was held in the Oakland County Circuit Court. With respect to the issue of whether Appellants City of Pleasant Ridge and City of Huntington Woods were District Funding Units required to appropriate funds for the operation of the 45th District Court, the trial court ruled as follows:

> *Factually it is undisputed that both Appellants and Defendant Oak Park are political subdivisions and the district funding unit – units within the definition of MCL 600.8104(1)(b).*
>
> *MCL 600.8104(2) provides that except as otherwise provided in this act a district funding unit shall be responsible for maintaining, financing, and operating the court only within its political subdivision.*
>
> *However, MCL 600.8271(1) provides in pertinent part that the governing body of each district unit shall annually appropriate by line item or lump sum budget funds for the operation of the district court in that district.*
>
> *However, before a governing body of a district funding unit may appropriate a lump sum budget the chief judge at the judicial district must submit to the governing body of the district funding unit a budget request in line item form with the appropriate detail.*
>
> *In addition, MCR 8.201(a)(2-5) states that the clerk of the court shall determine the total costs of maintaining, financing and operating the district court within the district and shall determine the proper share of the cost to be borne by each political subdivision. Also that the figures shall be certified.*
>
> *MCR 2.605 allows a court to declare the rights and other legal relations of the interested parties seeking a declaratory judgment whether or not other relief is or could be sought or granted. The primary goal of judicial interpretation of statutes is to ascertain and give effect to the intent of the legislature. See, the traffic jam case at 194 Mich. App. 460.*
>
> *Courts are to apply the plain meaning of statutes. See Lake Angelus versus Oakland County Road Commission, 194 Mich. App. 220.*
>
> *Statutes are to be construed as a whole and unreasonable results must be avoided.*
>
> *The Court finds here based on the clear language of MCL 600.8104 and MCL 600.8271(1) all political subdivisions including Appellants and Defendant Oak Park as well as non-party Royal Oak Township are responsible for funding the Court.*
>
> *However, since the chief judge budget is a requirement for the annual appropriation, the Court further finds that the funding unit shall forthwith contribute to the court upon receipt of a chief judge line item budget which shall also be accord with MCR 8.201(a).*

> *For these reasons and those further stated by Defendants, this part of Oak Park's motion is granted as just stated.* **Exhibit 3, p. 9-11.**

With respect to the issue of whether the funds collected for the court building fund and for court employee retirement healthcare were fines or costs subject to distribution under MCL 600.8379, or fees not subject to such distribution, the trial court ruled as follows:

> *MCL 141.261 provides in part that any governing body is authorized and empowered to create and establish a fund for the purpose of appropriating money to be used for building purposes and shall not be transferred except for the purpose of improvements.*
>
> *In 1995 the proposed assessment for these two funds was addressed by the court. See defendant's Exhibit 5.*
>
> *The funds were designated as charges for the two purposes held in two specific accounts and not part of the fines and costs distribution. See, Defendant's Exhibit 7.*
>
> *Moreover, MCL 600.8379(1)(C) splits only the fines and costs assessed in the court which are to be distributed two-thirds Oak Park and one-third to the funding unit whose law was violated.*
>
> *The Court agrees that MCL 600.8379 only requires distribution of fines and costs. Because the fees there are for building and healthcare were specifically designated for specific purposes as allowed under MCL 141.261 they do not fall within MCL 600.8379.*
>
> *For these reasons and those further stated by defendants, the Court also grants Oak Park's motion for summary disposition on Appellants' complaint in favor of defendants.*
>
> *The Court finds as a matter of law that the funds collected for building improvements and retiree's healthcare are not fines and costs subject to a one-third distribution to Appellants.* **Exhibit 3, p. 12-13.**

On April 3, 2014, the Trial Court entered an order granting ***partial s***ummary disposition in favor of Oak Park leaving one issue remaining: the Court ordered that the City of Oak Park's request for the Court to order fees improperly distributed from July 1, 2012 to February 2014 to be returned to the appropriate court expense fund, was not ruled on by the Court. Thus the order was not a final order of the Court. **Exhibit 2.** On April 16, 2014, Appellants filed a Motion for Stay, which was granted by the Trial Court on April 23, 2014.

On April 22, 2014, Appellants filed an Application for Leave to File an Interlocutory Appeal seeking to appeal the Trial Court's determinations that: 1) Appellants City of Pleasant Ridge and City of Huntington Woods are responsible to provide funding for the 45th District Court and must comply with the funding obligation found in MCL 600.8271(1); and 2) charges assessed for the purposes of retiree healthcare and for court building improvements are not fines and costs subject to a one-third distribution to Appellants pursuant to MCL 600.8379, but are fees which are not subject to such distribution. The Appellants' request for Leave to File an Interlocutory Appeal was granted by the Court of Appeals on October 14, 2014. **Exhibit 13**. The Court of Appeals certified for appeal ***only*** the following two (2) issues from the Appellants' Application for Leave to Appeal:

> **Issue 1**. Where the Cities of Huntington Woods and Pleasant Ridge waived the requirement for the District Court to sit within their political jurisdictions in 1974 upon reliance of the application of MCL 600.8379, does the Oakland County Circuit Court have the authority to require the communities of Huntington Woods and Pleasant Ridge to follow MCR 8.201(A) when there is no agreement amongst the communities as contemplated by MCL 600.8104(3) and, therefore, in effect render MCL 600.8379 void and of no effect?
>
> **Issue 2**. Whether the Oakland County Circuit Court can rule as a matter of law that charges for the Retiree Healthcare Fund and the Building Fund, unilaterally created by the City of Oak Park and imposed by the 45th District Court without the consent or knowledge of the Cities of Huntington Woods and Pleasant Ridge, are fees and not costs subject to distribution under MCL 600.8379 without the benefit of a factual basis, expert opinion, and contrary to the State Court Administrator Office Report of October 2012?

The Township of Royal Oak, also a funding unit in the 45th Judicial District, filed a separate action claiming entitlement to a portion of the fees collected over the 18 year period for the 45th District Court retiree health care and building expenses. On May 16, 2014, Royal Oak Township stipulated to be bound by the outcome of this case and a Court Order to that effect was entered. **Exhibit 17.**

On June 11, 2015, the Court of Appeals issued its decision affirming the Order of the Trial Court granting partial summary disposition. **Exhibit 1.**

On July 23, 2015, the Appellants filed an Application for Leave to Appeal to this Court.

STANDARD OF REVIEW

MCR 7.302(B) requires that an application must establish sufficient grounds for a grant of leave to appeal. Appellants' Application for Leave to Appeal does not establish sufficient grounds to support granting Leave to Appeal as required by MCR 7.302(B)(5) because the decision of the Court of Appeals was not clearly erroneous, will not cause material injustice, and does not conflict with a Supreme Court decision or another decision of the Court of Appeals. This case simply involves the application of established rules of statutory construction of the legislative enactments found in the Revised Judicature Act and does not involve "legal principles of major significance to this state's jurisprudence." MCR 7.302(B)(3). Furthermore, the Court of Appeals' and Trial Court's holdings were correct for the reasons explained in this Response.

Moreover, the scope of the issues to be reviewed was limited by the Court of Appeals to the two (2) issues from the Appellants' Application for Leave to File Interlocutory Appeal, as follows:

> **Issue 1**. Where the Cities of Huntington Woods and Pleasant Ridge waived the requirement for the District Court to sit within their political jurisdictions in 1974 upon reliance of the application of MCL 600.8379, does the Oakland County Circuit Court have the authority to require the communities of Huntington Woods and Pleasant Ridge to follow MCR 8.201(A) when there is no agreement amongst the communities as contemplated by MCL 600.8104(3) and, therefore, in effect render MCL 600.8379 void and of no effect?
>
> **Issue 2**. Whether the Oakland County Circuit Court can rule as a matter of law that charges for the Retiree Healthcare Fund and the Building Fund, unilaterally created by the City of Oak Park and imposed by the 45th District Court without the consent or knowledge of the Cities of Huntington Woods and Pleasant Ridge, are fees and not costs subject to distribution under MCL 600.8379 without the benefit of a factual basis, expert opinion, and contrary to the State Court Administrator Office Report of October 2012? **Exhibit 10.**

In the Court of Appeals Brief on Appeal and in the Application for Leave to Appeal to this Court, the Appellants have significantly strayed beyond the issues certified for interlocutory

appeal, they have misrepresented the facts, and asserted facts and made arguments not part of the lower court record.

LAW AND ARGUMENT

Rules of common sense apply to the construction of statutes, *Kalamazoo County v. Stamm*, 339 Mich. 619; 64 NW2d 595 (1954). Further, legislative enactments must be considered in their entirety, and no statutory expression may be treated as superfluous or without meaning. *In Re Perry*, 157 F. Supp. 910 (W.D. Mich. 1958). Also, statutes must be construed to avoid absurd results. *Lamphere Schools v. Lamphere Federation of Teachers*, 400 Mich. 104, 252 NW2d 818 (1977). The construction of the RJA proffered by Appellants lacks common sense, treats pertinent provisions of the law as superfluous, abrogates the legislative mandates set forth in MCL 600.8271, and has absurd consequences.

The legislature established the District Court System as part of the Revised Judicature Act (RJA). Therefore, this case involves application of the established rules of statutory construction of the following pertinent provisions of the RJA:

MCL 600.8123

> Beginning July 1, 2012, the forty-fifth district is created. The forty-fifth district consists of the cities of Huntington Woods, Oak Park, and Pleasant Ridge and the township of Royal Oak in the county of Oakland, **is a district of the third class**, and has 2 judges (emphasis added).

MCL 600.8103(3)

> (3) A district of the third class is a district consisting of 1 or more political subdivisions within a **county and in which *each* political subdivision comprising the district is responsible for maintaining, financing and operating the district court within its respective political subdivision except as otherwise provided in this act** (emphasis added).

MCL 600.8104(2)

> (2) In districts of the third class a political subdivision shall not be responsible for the expenses of maintaining, financing, or operating the district court, traffic bureau, or small claims division incurred in any other political subdivision **except as provided by section 8621 and other provisions of this act** (emphasis added).

MCL 600.8104(3)

(3) One or more district funding units within any district may agree among themselves to share any or all of the expenses of maintaining, financing, or operating the district court. **To become effective such agreements must be approved by resolution adopted by the governing body of the respective political subdivisions entering into the agreement, and upon approval such agreements shall become effective and binding in accordance with, to the extent of, and for such period stated in that agreement** (emphasis added).

MCL 600.8251(4)

(4) In districts of the third class, the court shall sit at each city having a population of 3,250 or more and within each township having a population of 12,000 or more and at other places as the judges of the district determine. **The court is not required to sit in any political subdivision if the governing body of that subdivision by resolution and the court agree that the court shall not sit in the political subdivision** (emphasis added).

MCL 600.8271(1)

(1) **The governing body of each district funding unit shall annually appropriate, by line-item or lump-sum budget, funds for the operation of the district court in that district.** However, before a governing body of a district funding unit may appropriate a lump-sum budget, the chief judge of the judicial district shall submit to the governing body of the district funding unit a budget request in line-item form with appropriate detail. A court that receives a line-item budget shall not exceed a line-item appropriation or transfer funds between line items without the prior approval of the governing body. A court that receives a lump-sum budget shall not exceed that budget without the prior approval of the governing body (emphasis added).

MCL 600.8379(1)(c)

(c) Except as provided in subsection (2), in districts of the first and second class, 1/3 of all fines and costs, other than those imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, shall be paid to the political subdivision whose law was violated and 2/3 shall be paid to the county in which the political subdivision is located. **In districts of the third class, all fines and costs**, other than those imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, shall be paid to the political subdivision whose law was violated, **except that where fines and costs are assessed in a political subdivision other than the political subdivision whose law was violated, 2/3 shall be paid to the political subdivision where the guilty plea or civil infraction admission was entered or where the trial or civil infraction action hearing took place and the balance shall be paid to the political subdivision whose law was violated** (emphasis added).

MCL 600.8621(1)

> (1) **District court recorders and reporters shall be paid by each district control unit.** In districts consisting of more than 1 district control unit, each district control unit shall contribute to the salary in the same proportion as the number of cases entered and commenced in the district control unit bears to the number of cases entered and commenced in the district, as determined by the judges of the district court under rules prescribed by the supreme court (emphasis added).

The absurdity of Appellants' construction of the above RJA provisions is clear when you consider that Appellants propose that the RJA 1) creates judicial districts that are comprised of more than one community, each named a "district funding unit"; 2) allows the Court for the judicial district to agree with a community to waive the requirement that the Court sit within the geographic boundaries of that community; 3) results in the community utilizing the Court facilities located in one of the other communities; 4) compels the community where the Court sits to use its tax dollars to pay for the expenses of providing access to justice to the residents from the community that waived the sitting of the Court within its geographic boundaries, **all without the community where the Court will sit having any say in the matter**. Not only is the result absurd, it lacks common sense that one city can by adopting a resolution to waive the requirement that the Court sit within their city, shift the burden of funding the Court to another community that must use its tax dollars to provide judicial services to the residents of the neighboring city.

Fundamentally, this case is about the statutory responsibility of each community that is part of a judicial district of the third class to financially support the District Court that provides access to justice to its citizens. Since 1975, the Court of Appeals has recognized that the location of the District Court in another political subdivision does not diminish the statutory responsibility of the other District Funding Units to undertake maintaining, operating, and financing the District Court for their District. Pursuant to the RJA in Section 8104(2) each is directed as District

Control/Funding Units[1] to undertake 'maintaining, operating, and financing' of the court. *City of Muskegon v Muskegon County*, 63 Mich. App 44; 233 NW2d 849 (1975).

QUESTION I

SHOULD THIS COURT GRANT LEAVE TO APPEAL TO CONSIDER WHETHER THE COURT OF APPEALS AND LOWER COURT ERRED IN APPLYING THE ESTABLISHED RULES OF STATUTORY CONSTRUCTION TO THE PROVISIONS OF THE REVISED JUDICATURE ACT WHEN EACH HELD THAT THE PLAINTIFFS AS FUNDING UNITS FOR A DISTRICT COURT OF THE THIRD CLASS HAVE A STATUTORY DUTY TO CONTRIBUTE TO THE EXPENSES OF OPERATING THE 45TH DISTRICT COURT?

Because the decision of the Court of Appeals was not clearly erroneous, will not cause material injustice, does not conflict with a Supreme Court decision or another decision of the Court of Appeals and does not involve "legal principles of major significance to this state's jurisprudence," leave to appeal should be denied by this Court. The Court of Appeals, as well as the Trial court, correctly ruled that the Appellants are funding units responsible for funding the 45th District Court and correctly ordered the Appellants to "forthwith comply with MCL 600.8271(1)." **Exhibits 1, 2, 3.**

This case simply involves the application of established rules of statutory construction of the pertinent provisions of the RJA which were properly applied by the lower courts as explained below.

The Court for the State of Michigan is divided into judicial districts. The district court of each judicial district is an administrative unit subject to superintending control of the Supreme Court. The cities of Huntington Woods, Oak Park and Pleasant Ridge, and the Township of Royal Oak comprise the 45th Judicial District. Presently, MCL 600.8123 states in pertinent part:

> Beginning July 1, 2012, the forty-fifth district is created. The forty-fifth district consists of the cities of Huntington Woods, Oak Park, and Pleasant Ridge and the township of Royal Oak in the county of Oakland, is a district of the third class, and has 2 judges.

[1] District Control Unit is synonymous with District Funding Unit. MCL 600.8104(1).

The 45th Judicial District is a district of the third class. MCL 600.8103(3) defines a district of the third class as a "district consisting of 1 or more political subdivisions within a county." Specifically, MCL 600.8103(3) states:

> (3) A district of the third class is a district consisting of 1 or more political subdivisions within a county and in which <u>*each*</u> *political subdivision comprising the district is responsible for maintaining, financing and operating the district court within its respective political subdivision except as otherwise provided in this act* (emphasis added).

Each of the cities and the township located in the 45th District are District Funding Units for the 45th District Court. MCL 600.8104 defines a District Funding Unit as "the City or Township in districts of the third class." Because the cities of Huntington Woods, Oak Park, Pleasant Ridge, and the Township of Royal Oak comprise the 45th District and it is a district of the third class, the cities of Huntington Woods, Oak Park and Pleasant Ridge, and the Township of Royal Oak are all District Funding Units for the 45th District Court.

The Revised Judicature Act addresses the responsibility of the District Funding Units in Sections 8104, 8271 and 8621. MCL 600.8104(2) and (3) states:

> (2) *Except as otherwise provided in this act*, a district funding unit shall be responsible for maintaining, financing, and operating the court only within its political subdivision. <u>*In districts of the third class*</u> a political subdivision shall not be responsible for the expenses of maintaining, financing, or operating the district court, traffic bureau, or small claims division incurred in any other political subdivision *except as provided by section 8621 and other provisions of this act* (emphasis added).
>
> (3) One or more district funding units within any district may agree among themselves to share any or all of the expenses of maintaining, financing, or operating the district court. *To become effective such agreements must be approved by resolution adopted by the governing body of the respective political subdivisions entering into the agreement, and upon approval such agreements shall become effective and binding in accordance with, to the extent of, and for such period stated in that agreement* (emphasis added).

Appellants, noting that MCL 600.8104(3) provides that district funding units may agree among themselves to share in the expense of maintaining and financing the Court, appear to reason that unless they so agree, there is no funding obligation for those districts in which the District

Court is not located. The fallacy of Plaintiff's argument is that it ignores the clear language of MCL 600.8104(2) – "[e]xcept as otherwise provided in this act" – which requires the Court to consider funding obligations set forth in other portions of the Act, most notably MCL 600.8271. Section 8271 mandates that the governing body of each District Funding Unit ***shall annually appropriate funds for the operation*** of the district court ***in that district*** (emphasis added). Specifically, MCL 600.8271 provides as follows:

> (1) *The governing body of **each** district funding unit **shall** annually appropriate, by line-item or lump-sum budget, funds for the operation of the district court in that district*. However, before a governing body of a district funding unit may appropriate a lump-sum budget, the chief judge of the judicial district shall submit to the governing body of the district funding unit a budget request in line-item form with appropriate detail. A court that receives a line-item budget shall not exceed a line-item appropriation or transfer funds between line items without the prior approval of the governing body. A court that receives a lump-sum budget shall not exceed that budget without the prior approval of the governing body (emphasis added).

MCL 600.8621 also addresses the responsibility of each District Control Unit for the expenses of district court recorders and reporters, as follows:

> (1) District court recorders and reporters shall be paid by each district control unit. In districts consisting of more than 1 district control unit, each district control unit shall contribute to the salary in the same proportion as the number of cases entered and commenced in the district control unit bears to the number of cases entered and commenced in the district, as determined by the judges of the district court under rules prescribed by the supreme court.

A close review of the applicable sections of the RJA requires the conclusion that the cities of Huntington Woods, Oak Park and Pleasant Ridge, and the Township of Royal Oak are all District Funding Units for the 45th District Court, and as District Funding Units, each unit is required to contribute to the expenses of maintaining, financing, and operating the District Court ***for their district***, to wit, the 45th District Court. MCL 600.8271(1); MCL 600.8621(1); MCL 600.8104. This was recognized by the Supreme Court in 1978 in the case of *City of Center Line v. 37th District Court Judges*, 403 Mich. 595; 271 NW2d 526 (1978). That case stands in part for the

proposition that despite the fact that a Court does not sit in the geographic boundaries of a political subdivision, if they are part of the district of the third class, the political subdivision is still responsible for court operations. The Supreme Court explained:

> The 1963 Constitution required the Legislature to establish a court of limited jurisdiction:
>
> "The location of such court or courts, and the qualifications, tenure, method of election and salary of the judges of such court or courts, and by what governmental units the judges shall be paid, shall be provided by law, subject to the limitations contained in this article." Const. 1963, Art. 6, Sec. 26.
>
> The Legislature responded with the district court act. Among the judicial districts created was the 37th, consisting of the cities of Warren and Center Line. The 37th was made a district of the third class, ie., "a district consisting of 1 or more political subdivisions" ***with each political subdivision responsible for court operations***. Under RJA s 9921, existing municipal courts were "abolished" except those that were resurrected under s 9928 (emphasis added, footnotes omitted). *Id.* at 600.

See also, *Judges of the 74th Judicial District v. Bay County,* 385 Mich. 710, 726; 190 NW2d 219 (1971), where the Supreme Court held that, "Where a judicial district consists of more than one district control unit, each unit is required to contribute to the expenses of the court." In this case, the Court of Appeals applied rules of statutory construction and held that each District Funding Unit is required to provide funding for the District Court regardless of which political subdivision the Court is seated in. Specifically the Court held that:

> MCL 600.8621 requires each district funding unit to contribute to the salaries of district court recorders and reporters. MCL 600.8271(1) states that the governing body of each district funding unit "shall annually appropriate . . . funds for the operation of the district court in that district." It is well established "that the term 'may' is permissive,' . . . as opposed to the term 'shall,' which is considered 'mandatory.' " *Manuel v Gill*, 481 Mich. 637, 647; 753 NW2d 48 (2008). By using the mandatory term "shall," instead of the permissive term "may," MCL 600.8271(1) clearly requires each district funding unit to provide funding for the district court. Reading these provisions of the Revised Judicature Act together, in accordance with the doctrine of *in pari materia*, the statutory scheme clearly imposes on all district funding units in a third-class district a duty to provide financial support for the district court, regardless of which political subdivision the court is seated. *Titan Ins Co*, 296 Mich. App. at 83. **Exhibit 1, p. 10**

Finally, it should be noted that Appellants essentially conceded the correctness of the Trial Court's order in their Application for Leave to Appeal to the Court of Appeals by arguing that "MCL 600.8271(1) may be pertinent, if the prerequisite that the Chief Judge of the District Court submit a budget request as prescribed by the statute to the governing body had been done." See, Appellants' Application for Leave filed with COA, p. 9. The Court of Appeals correctly addressed this argument as follows:

> Plaintiffs overlook the limiting introductory language at the beginning of § 8104(2), "except as otherwise provided in this act," and the similar language at the end of that subsection, which again specifies that the provisions of that subsection apply "except as provided by section 8621 and other provisions of this act."
>
> Plaintiffs argue that if there is such a requirement, it is not triggered until the chief judge submits a proposed budget to the funding unit. Plaintiffs rely on the second sentence in § 8271(1), which states that "before a governing body of a district funding unit may appropriate a lump-sum budget, the chief judge of the judicial district shall submit to the governing body of the district funding unit a budget request in line-item form with appropriate detail." The statutory provision goes on to state that "[a] court that receives a line-item budget shall not exceed a line-item appropriation or transfer funds between line items without the prior approval of the governing body" and "[a] court that receives a lump-sum budget shall not exceed that budget without the prior approval of the governing body." The relevant context of this requirement pertains to the choice of a lump-sum budget over a line-item budget, not to the funding unit's financial obligation.

Certainly, the decision of the Court of Appeals was not clearly erroneous, and was based on proper application of statutory construction. A close reading of Section 8271 reveals that before a funding unit may appropriate a lump-sum budget, a line-item budget must be submitted by the Chief Judge. This is not a prerequisite to the statutory funding obligation; rather it recognizes two (2) types of budgets found in municipal fund accounting.

Appellants have asserted that Oak Park assumed the obligation to be the sole source of funding for the District Court. This assertion is unfounded, completely unsupported by the record and clearly self-serving. To interpret the provisions of the RJA as proffered by Appellants results in material injustice to the ***City and residents of Oak Park***. Placing the financial burden on Oak Park taxpayers to pay for the expenses incurred by Pleasant Ridge and Huntington Woods for use

of the Court all these years simply because the Court for the District sits in Oak Park is unsupported by the legislative enactments. It lacks common sense that one city that is served by the Court can, by adopting a resolution to waive the requirement that the Court sit within their city, shift the responsibility of funding the Court to the community where the Court sits, thereby resulting in tax dollars being used to provide judicial services to the residents of the neighboring city. This is what violates MCL 600.8104 and is a travesty.

The language of Sec. 8104(2) of the RJA is intended to limit the financial responsibility for each court, as an administrative unit assigned to the judicial district, to the political subdivision to which that administrative unit is assigned to provide access to justice. One political subdivision is not responsible for the costs of providing access to justice for another political subdivision. This makes sense, is fair, and constitutional.

In districts of the third class where there is more than one political subdivision, the second sentence of Section 8104(2) carries this intention to limit the financial responsibility to the political subdivision which incurs the cost of judicial services. If Huntington Woods prosecutes its ordinance violations in the 45th District Court, Huntington Woods incurs the cost of operating the court, thus Huntington Woods is responsible for those costs of financing, maintaining, or operating the Court for their benefit. For Oak Park to be financially responsible to provide access to justice to Huntington Woods, Pleasant Ridge or Royal Oak Township just because the Court is not located in Huntington Woods, Pleasant Ridge or Royal Oak Township is actually a violation of Section 8104(2), makes no common sense, is not fair and the constitutionality of such interpretation is questionable.

Further, the RJA specifically provides the authority for the funding units of a district of the third class to enter into an expense sharing agreement and sets forth the procedure. To become effective the agreement must 1) be approved by resolution of the governing bodies that are part of

the agreement; 2) state within the agreement the extent to which it is binding; and 3) state in the agreement the period of time it is effective and binding. As discussed in the next argument, while Oak Park has made such requests, there has been no expense sharing agreement between any of the District Funding Units for the 45th District Court.

The Appellants have not, and cannot, demonstrate a clear error that would support granting leave to appeal. Both the Court of Appeals and the Trial Court correctly interpreted the unambiguous statutes when it ruled that the cities of Pleasant Ridge and Huntington Woods are responsible for funding of the 45th District Court. Because the decision of the Court of Appeals was not clearly erroneous leave to appeal should be denied by this Court.

QUESTION 2

SHOULD THIS COURT GRANT LEAVE TO APPEAL TO CONSIDER WHETHER THE COURT OF APPEALS AND TRIAL COURT ERRED BY HOLDING THAT THE APPELLANTS CANNOT ESTABLISH THE EXISTENCE OF A VALID CONTRACT THAT LIMITED THEIR FINANCIAL OBLIGATION FOR OPERATING EXPENSES OF THE DISTRICT COURT TO THE REVENUE SHARING PROVISION OF THE REVISED JUDICATURE ACT FOUND IN MCL 600.8379 CONSIDERING THAT THE APPELLANTS CONCEDED THAT THERE WAS "NO AGREEMENT AMONGST THE COMMUNITIES AS CONTEMPLATED BY MCL 600.8104(3)" IN THEIR APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF APPEALS?

First and foremost, it is important to note that under the RJA the responsibility to contribute to the expenses of the District Court by each District Funding Unit is not limited by the amount of fine and cost revenue collected by the Court and allocated pursuant to MCL 600.8379. Just as the RJA addresses ***funding*** of the expenses to operate the District Court in Chapter 82 of the RJA, Section 8271(1), it also authorizes and mandates the ***allocation*** of the fines and costs collected by the District Court in a separate chapter and section: Chapter 83, Section 8379. Section 8379 mandates that the Clerk of the Court appropriate the fines and costs paid to the Clerk in the manner set forth in Section 8379. In pertinent part, Section 8379 provides:

(1) Fines and costs assessed in the district court shall be paid to the clerk of the court who *shall appropriate them as follows*:

(a) A fine imposed for the violation of a penal law of this state and a civil fine ordered in a civil infraction action for violation of a law of this state shall be paid to the county treasurer and applied for library purposes as provided by law.

(b) In districts of the first and second class, costs imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state shall be paid to the treasurer of the county in which the action was commenced. *In districts of the third class, costs imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state shall be paid to the treasurer of the political subdivision where the guilty plea or civil infraction admission was entered or where the trial or civil infraction action hearing took place.*

(c) Except as provided in subsection (2), in districts of the first and second class, 1/3 of all fines and costs, other than those imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, shall be paid to the political subdivision whose law was violated and 2/3 shall be paid to the county in which the political subdivision is located. *In districts of the third class, all fines and costs, other than those imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, shall be paid to the political subdivision whose law was violated, except that where fines and costs are assessed in a political subdivision other than the political subdivision whose law was violated, 2/3 shall be paid to the political subdivision where the guilty plea or civil infraction admission was entered or where the trial or civil infraction action hearing took place and the balance shall be paid to the political subdivision whose law was violated.*

(d) In a district of the third class, if each political subdivision within the district, by resolution of its governing body, agrees to a distribution of fines and costs, other than fines imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, differently than as provided by this section, the distribution of those fines and costs among the political subdivisions of that district shall be as agreed to. An existing agreement applicable to the distribution of fines and costs shall apply with the same effect to the distribution of civil fines and costs ordered in civil infraction actions (emphasis added).

The application of the above provisions is clearly limited to the funds received in payment on fines and costs assessed and the manner in which that revenue shall be allocated and disbursed. The provisions contained in Section 8379 do not by their terms limit or, by the application of any

rule of statutory construction, apply to the responsibility of the District Funding Unit to finance the expenses of operating the District Court for their district. The Legislature treated the ***responsibility for the expense*** of maintaining, financing, and operating the District Court separately from the method mandated for ***allocation of revenue*** collected by the District Court. In interpreting a statute, effect must be given, if possible, to every word, sentence, and section, and to that end the entire act must be read, and the interpretation be given to a particular word in one section arrived at only after consideration of every other section, so as to produce, if possible, a harmonious and consistent enactment as a whole. *City of Grand Rapids v. Crocker,* 219 Mich. 178, 182-183; 189 NW 221 (1922). Appellants' assertion that MCL 600.8379 limits its responsibility to fund the operations of the Court is unfounded.

Similarly, Appellants' argument that there was an agreement to limit their responsibility to fund the operations of the District Court to the amount of revenue distributed according to the formula for fine and cost revenue allocation is equally unfounded. There simply was no agreement between the cities of Huntington Woods, Pleasant Ridge and Oak Park or the Township of Royal Oak as funding units that addresses the expense of maintaining, financing, or operating the 45th District Court. Further, as the Court of Appeals found, the Appellants cannot establish the existence of a valid agreement respecting their funding obligations and they failed to establish a genuine issue of fact regarding whether a valid contract was formed. **Exhibit 1, p. 12.**

MCL 600.8104 provides that the District Funding Units may agree among themselves to share any or all of the expenses of operating the District Court. To become effective such agreements must: 1) be approved by resolution adopted by the governing body of the respective political subdivisions entering into the agreement; 2) are effective and binding only to the extent stated in the agreement; and 3) are effective and binding only for the period of time stated in the agreement. MCL 600.8104(3).

A search of Oak Park records in years 1974 to the end of 1975 indicated that there was no resolution related to funding of the 45-B District Court, nor any agreement between the funding units as to financing the operation of the 45-B District Court. However, a review of the 1983 Resolution, CM-04-290-83, adopted by the City of Oak Park reveals that there clearly was NO AGREEMENT between the communities. After declaring that since January 1, 1975 the City of Oak Park had borne the total expense of operating the District Court, the City by Resolution implored the other District Funding Units to ***enter into an agreement***. In pertinent part the Resolution stated:

> "the City of Huntington Woods, City of Pleasant Ridge and Township of Royal Oak are *hereby requested to enter into an agreement with the City of Oak Park* to share all of the expenses of maintaining, financing and operating the 45-B District Court at a location within the boundaries of the political subdivision of the City of Oak Park." **Exhibit 6, p. 9-12.**

It is the resolutions that were adopted to waive the requirement that the Court sit within the geographic boundaries of the political subdivisions as provided by MCL 600.8251 that the Appellants now argue were an agreement, or an understanding as to funding of the expenses of the Court. However, the argument that there was an agreement made at this stage of the proceedings is disingenuous and not supported by the record. In their Brief in Support of Leave to Appeal, Appellants acknowledged there has been no agreement between the funding units as to funding of the expenses of the District Court. Clearly, there was no written agreement between the parties, there were no resolutions adopted by the governing bodies of *each* political subdivision approving such agreement, no mention in the Resolutions adopted by the Appellants of an expense sharing agreement, no provisions stating the terms of the agreement, and no effective date or period of time as required by statute. MCL 600.8104(3). Notwithstanding Oak Park's plea for relief and attempts at coming to an agreement, the Appellants never entered into an agreement regarding the operating expenses.

There simply was no agreement. There was only a resolution waiving the requirement that the court sit within the political jurisdictions of Huntington Woods and Pleasant Ridge. Accordingly, the Court of Appeals correctly held that "Plaintiffs cannot establish the existence of a valid contract limiting their financial obligations to the one-third/two-thirds revenue sharing provision."

A final note is required concerning Appellants' argument that the District Court Act is completely silent on the allocation of financial responsibility for the funding of district courts of the third class and asserts that the Court must address whether a court rule that addresses district court funding responsibilities is within the constitutional authority of the Michigan Supreme Court under Article 6, Section 5 of the Michigan Constitution.

First, the legislature mandated in the RJA Section 8271(1) that the governing body of ***each*** district funding unit ***shall*** annually appropriate, by line-item or lump-sum budget, funds for the operation of the District Court in that District. Further, RJA Section MCL 600.8104(3) provides the authority for district funding units within any district to agree among themselves to share any or all of the expenses of maintaining, financing, or operating the district court. In the absence of an agreement between the District Funding Units as allowed by MCL 600.8104(3), the manner of determining the appropriate contribution for each District Funding Unit is supplied by MCR 8.201(A), which provides in pertinent part as follows:

> 3) The clerk shall determine the proper share of the costs to be borne by each political subdivision by use of the following formula: (the number of cases entered and commenced in each political subdivision divided by the total number of cases entered and commenced in the district) multiplied by the total cost of maintaining, financing, and operating the district court.

The Trial Court correctly cited MCR 8.201 as the means by which the parties' contributions to the operation of the District Court should be determined absent a valid agreement to otherwise share the expenses of maintaining, financing, or operating the 45th District Court. MCR 8.201 does

not conflict with or trump the legislative mandates of the RJA as alluded to by Appellants. Rather it is an administrative rule setting forth the procedure for allocation of costs in third class districts and certainly falls within the superintending control of the Supreme Court.

The Appellants have not, and cannot, demonstrate a clear error that would support granting leave to appeal. Both the Court of Appeals and the Trial Court correctly interpreted the unambiguous statutes and factual record when it ruled that the cities of Pleasant Ridge and Huntington Woods were not limited in their funding obligations for the operation of the Court by either the RJA or by a valid agreement between the parties. Because the decision of the Court of Appeals was not clearly erroneous, leave to appeal should be denied by this Court.

QUESTION 3

SHOULD THIS COURT GRANT LEAVE TO APPEAL TO CONSIDER WHETHER THE COURT OF APPEALS AND CIRCUIT COURT ERRED IN THE APPLICATION OF THE ESTABLISHED RULES OF STATUTORY CONSTRUCTION WHEN EACH HELD THAT THE MONIES ASSESSED AND COLLECTED FOR THE BUILDING AND RETIREE HEALTHCARE FUND ARE NOT "COSTS" UNDER MCL 600.4801(a); RATHER, SUCH ASSESSMENTS COME WITHIN THE STATUTORY DEFINITION OF 'FEE' AS FOUND IN MCL 600.4801(b) AND ARE NOT SUBJECT TO THE ONE-THIRD REVENUE DISTRIBUTION UNDER MCL 600.8379?

The Complaint filed by the cities of Huntington Woods and Pleasant Ridge sought a monetary judgment against the 45th District Court and the City of Oak Park for allegedly failing to disburse to them one-third of *fees* collected by the District Court that were assessed and collected for retiree healthcare and building improvement expenses. The Court of Appeals correctly affirmed the decision of the Trial Court when it held that:

> Therefore, monies assessed and collected for the building fund and the retiree healthcare fund are not "costs" under MCL 600.4801(a). Such assessments come within the statutory definition of "fee," which is defined as "any monetary amount, other than costs or a penalty, that the court is authorized to impose and collect pursuant to a conviction, ..." MCL 600.4801(b). Because a "fee" is not part of the allocation required by MCL 600.8379(1)(c), neither Oak Park nor the 45th District Court was required to distribute one-third of the assessment to plaintiffs.

As explained in the Appellee's Concise Statement of Material Proceedings and Facts, since the inception of the District Court, there were issues with the adequacy of the Court facility. During fiscal year ***1995-1996,*** the Court started to assess and collect *fees* to fund building improvements. The fees were assessed, designated, collected, and accounted for by the City of Oak Park in Fund No. 470, titled Municipal Building Construction Fund, a public improvement fund. Similarly, during fiscal year ***1995-1996***, the Court started to collect *fees* specifically designated for Court retiree health care expenses. The *fees* collected to fund this expense are accounted for by the City of Oak Park in the Retiree Health Care-District Court Fund No. 678, an internal service fund. The Appellants are alleging that they were entitled to receive a one-third disbursement of these *fees* based on MCL 600.8379. These *fees* have been assessed and collected since fiscal year ***1995***. As the Court of Appeals found, a close reading of MCL 600.8379 does not support their argument.

The foundation of Appellants' argument is that the cities of Huntington Woods and Pleasant Ridge are entitled to a share of the *fees* based on the formula for districts of the third class contained in the Revised Judicature Act, MCL 600.8379(1)(c). Subsection (c) is set forth in pertinent part as follows:

> (c) ***In districts of the third class, all fines and costs,*** other than those imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, shall be paid to the political subdivision whose law was violated, except that where ***fines and costs*** are assessed in a political subdivision other than the political subdivision whose law was violated, 2/3 shall be paid to the political subdivision where the guilty plea or civil infraction admission was entered or where the Circuit or civil infraction action hearing took place and the balance shall be paid to the political subdivision whose law was violated (emphasis added).

MCL 600.8379 is clearly limited in its application to fines and costs. A court is to interpret the words of a statute in light of their ordinary meaning and their context within the statute and to read them harmoniously to give effect to the statute as a whole. *People v. Peralta*, 489 Mich. 174,

181; 803 NW2d 140 (2011)*; People v. Burns,* 5 Mich. 114 (1858)*; Dussia v. Merman,* 386 Mich. 244, 248; 191 NW2d 307 (1971).

The Court of Appeals carefully considered the definitions that apply to the RJA set forth in Section 4801 and determined that the assessments do not qualify as a cost, and that Section 8379(1)(c) is clearly limited to the allocation of fines and costs collected. It does not include fees or other assessments by the Court. The RJA in Section 4801 provides the following relevant definitions:

(a) "Costs" means any monetary amount that the court is authorized to assess and collect for prosecution, adjudication, or processing of criminal offenses, civil infractions, civil violations, and parking violations, including court costs, the cost of prosecution, and the cost of providing court-ordered legal assistance to the defendant.

(b) "Fee" means any monetary amount, other than costs or a penalty, that the court is authorized to impose and collect pursuant to a conviction, finding of responsibility, or other adjudication of a criminal offense, a civil infraction, a civil violation, or a parking violation, including a driver license reinstatement fee.

(c) "Penalty" includes fines, forfeitures, and forfeited recognizances.

(d) "Civil violation" means a violation of a law of this state or a local ordinance, other than a criminal offense or a violation that is defined or designated as a civil infraction that is punishable by a civil fine or forfeiture under the applicable law or ordinance.

The Court of Appeals analyzed the pertinent provisions of the RJA and correctly held that neither the building fund assessment nor the retiree healthcare fund assessment qualify as a "cost" within the definition of MCL 600.4801(a), noting that "the charge was not assessed or collected for the prosecution, adjudication, or processing of criminal offenses, civil infractions, or other violations", the Court determined that "we are not persuaded that the term "court costs" in §4801(a) extends to money collected for a court building fund or court retiree healthcare fund." **Exhibit 1, p. 13.**

The Appellants have argued that the definitions set forth in Section 4801 are limited in their application to "Chapter 48" of the RJA. This is a misconstruction of the organization and

application of the provisions of the RJA. The RJA is a chapter itself within the Michigan Statutes and is found in Chapter 600. Chapter 600 is divided into divisions and the definitions set forth in Section 4801 apply to all provisions in the entire chapter, Section 600.101 to 600.9948. Appellants' argument is not supported by a clear reading of the RJA.

Further, in construing a statute, effect must be given to every part; one part must not be so construed as to render another part nugatory. *People v. Morey*, 461 Mich. 325, 330 603 NW2d 250 (1999)*;* and *People v. Peralta, supra.* MCL 600.8379(3) ***does not state*** that in districts of the third class, ***all amounts collected*** shall be paid to the political subdivision whose law was violated . . . Rather it specifically states *"**fines and costs**" . . . "shall be paid"*, and therefore the allocation provision of MCL 600.8379(1)(c) is limited to fines and costs only. If a statute is unambiguous, it must be enforced as written. *Robinson v. Detroit*, 462 Mich. 439; 613 NW2d 307 (2000).

With the expenses of the District Court greatly exceeding the amount of fines and costs disbursed to the City of Oak Park for the operation of the District Court, the chronic underfunding due to the lack of financial support from the Appellants, and the functional inadequacy of the Court facility, the building improvement fees were implemented to address a serious long standing problem. The record shows that since its inception, there have been studies that demonstrating the functional inadequacy of the facility due to overcrowding, security concerns, inefficiency, failure to comply with SCAO guidelines, and information technology deficiencies which impede the Court's ability to function serviceably in carrying out its constitutional responsibility to deliver justice. **Exhibits 3, 4, 6, 11, 12, 14, 15 to Appellee's Brief on Appeal in the COA**. The fees were assessed pursuant to the Court's constitutional responsibility to deliver justice in an organized, expeditious, and secure manner. Further, a statutorily authorized fund was established to maintain those funds collected.

In addition, the employees of the District Court are employees of the Judiciary and the Presiding Judge exercises full authority and control over all matters of administration and personnel, including compensation and benefits. It was in 1995 that the Judges of the 45-B District Court implemented court retiree health care and included a fee to fund the expense. Since its inception, the funds have been accounted for in an internal service fund which is used to account for the financing of goods and services provided to other governmental units on a cost-reimbursement basis. **Exhibit 8, p. 92**. Despite the assessment of the fee for Court retiree healthcare, the amount collected does not cover the annual cost, and the City of Oak Park general fund has historically subsidized this expense from its general fund as well.

Each year the City of Oak Park and the 45th District Court have been audited. Further, there have been resolutions adopted by the City of Oak Park at public meetings regarding the imposition of the fees. **Exhibits 6, 7, 9, 12, 14.** In 2013, the Oak Park City Council adopted Resolution CM-06-214-13, **Exhibit 12**, which not only reiterated the purposes of the fees as collected by the Court, but also specifically acknowledged that "none of those funds may be used for general fund purposes by the City of Oak Park." **Exhibit 12**. As Appellee has argued in the Court below, the Appellants should be addressing the issues of funding the operational expenses and collection of revenue through negotiation and agreement, not by an unfounded, meritless action brought ***eighteen (18) years*** after the fact.

Appellants have placed great weight on the SCAO document entitled Court Costs Distributions, Fiscal Years 1996 through 2012, 45th District Court, City of Oak Park. **Exhibit 10.** This document refers to the *fees* collected for the Court building improvements and for retiree healthcare as "costs" without any legal analysis of the issue. A review of the report indicates it is merely a compilation of amounts collected and distributed over a long period of time. The scope of the report was limited to an examination of the Court's available month-end spreadsheets and

the automated system revenue reports that were available. It is not a legal analysis of whether the fees assessed and designated for the building and health care expenses were a fee or a cost. The report merely assumes that the charges were a *cost*. Not only is there no legal analysis of the fee vs. cost issue, there is no legal analysis of the legal implications and issues with assessing a fee for a designated purpose, accounting for the amount in a separate fund, and then not applying the amount to the assessed purpose but rather, distributing it to a political subdivision for its general fund as proposed by Appellants. Further evidence that the assessments are fees is found in the records which indicate a meeting was held with the State Court Administrator, John Ferry on December 11, 1998. **Exhibit 15.** At that meeting there was discussion regarding the Court assessing a *fee* that was not distributed as a cost under MCL 600.8379. Clearly, the additional assessment for building and health care expenses was not established as a cost as alleged by the Appellants and was not a "violation of Section 8379" as asserted by the Appellants.

The legislature has provided that a municipality has the power and authority to establish a fund for the purpose of accumulating monies to be used for public buildings pursuant to the Public Improvement Fund Act, MCL 141.261 et seq. Specifically, Section 1 of the Act provides:

> The legislative or governing body of any political subdivision is hereby authorized and empowered to create and establish a fund or funds for the purpose of appropriating, providing for, setting aside and accumulating moneys to be used for acquiring, constructing, extending, altering, repairing or equipping public improvements or public buildings, which said political subdivision may by the provisions of its charter or the general law be authorized to acquire, construct, extend, alter, enlarge, equip or repair. MCL 141.261.

The 1996 Comprehensive Annual Financial Report on page 90 indicates that the City of Oak Park established a Capital Project Fund entitled Municipal Building Construction Fund. The report states that the fund "was created to account for expenditures made to construct a new District Court Building. It is funded by a $5.00 per ticket charge on fines levied by the District Court 45B." **Exhibit 8**. The fees that are assessed, designated and collected for court building

improvements are accounted for in this special revenue fund. A special revenue fund is maintained to account for a specific revenue source that is legally restricted to expenditures for specific functions or activities. The funds are subject to the Uniform Budget and Accounting Act, MCL 141.421 et seq., and are audited every year. A fund created pursuant to the Public Improvement Fund Act is a special revenue fund that can only be used for "acquiring, constructing, extending, altering, repairing or equipping public improvements or public buildings." MCL 141.261 et seq.

Once the public improvement fund is established, MCL 141.262 mandates that "not withstanding the provisions of ***any*** law … monies accumulated in said fund *shall not* be transferred, encumbered, or otherwise disposed of except for the purpose of acquiring, constructing, extending, altering, repairing, or equipping public improvements or public buildings which a political subdivision may by the provisions of its charter or the general law be authorized to acquire, construct, extend, alter, repair or equip" (emphasis added). Therefore, the funds accumulated in the Municipal Building Construction Fund No. 470 shall be used only for the acquisition, construction, extension, alteration, repair, or equipment for the District Court. On June 3, 2013, the Oak Park City Council adopted Resolution CM-06-214-13, **Exhibit 12**, affirming that the fees collected by the Court and transmitted to the City of Oak Park for the building fund will be used for improvements for the 45th District Court. In the fall of 2013, the Oak Park City Hall and the 45th District Court facility were separated. As a result, the 45th District Court is the sole occupant of the building. The building is not SCAO compliant, and is in need of significant repairs and improvements. It is intended that the funds accumulated in the Municipal Building Construction Fund No. 470 will be used for needed improvements for the 45th District Court building.

In 1981, the Attorney General opined that a municipality is authorized to establish a special fund for the purpose of constructing a district court facility and may deposit into such fund revenues received from the District Court. AGO No. 5890 of 1981. The Attorney General has also opined that a special public improvement fund created by ordinance cannot be transferred to the general fund of a political subdivision creating it, as such transfer would amount to use of the fund for other purposes than acquiring, extending, altering, or repairing public improvements. AGO No. 2037 of 1943-45.

Thus, the City of Oak Park was authorized to establish the Municipal Building Construction Fund No. 470 for the purpose of accumulating monies to be used for the District Court building and the funds accumulated therein shall not be transferred, encumbered, or otherwise disposed of except as authorized by the Public Improvement Fund Act, MCL 141.261 et seq. Appellants have no entitlement to the funds accumulated in the Municipal Building Construction Fund No. 470.

For all the reasons set forth above, the Appellants have not, and cannot, demonstrate a clear error that would support granting leave to appeal. The Court of Appeals correctly interpreted the unambiguous statutes when it ruled that:

> Therefore, monies assessed and collected for the building fund and the retiree healthcare fund are not "costs" under MCL 600.4801(a). Such assessments come within the statutory definition of "fee," which is defined as "any monetary amount, other than costs or a penalty, that the court is authorized to impose and collect pursuant to a conviction, ..." MCL 600.4801(b). Because a "fee" is not part of the allocation required by MCL 600.8379(1)(c), neither Oak Park nor the 45th District Court was required to distribute one-third of the assessment to plaintiffs. **Exhibit 1, p. 14.**

Finally, the Appellants have placed much emphasis on the recent Supreme Court decision in *People v. Cunningham*, 496 Mich. 145; 852 NW2d 118 (2014). The issue decided by the Court in *People v. Cunningham*, *supra*, is clearly inapplicable and distinguishable from this case for the following reasons:

1. First and foremost, the *Cunningham* decision is not even remotely pertinent to the dispute between the parties as to whether the subject court building and court retiree

health care assessments were subject to distribution to the funding units under MCL 600.8379.

2. The issue before the Court in *People v. Cunningham, supra,* was limited to the application of a criminal statute, MCL 769.1k(1)(b)(ii) of the Code of Criminal Procedure, which does not apply to the fees assessed by the 45th District Court.

3. In *People v. Cunningham, supra,* the Court specified that the decision is limited to the facts of that case, and the Court recognized that there may be other authority for the imposition of costs of prosecution and court costs and limited its decision to application of MCL 769.1k(1)(b)(ii).

4. *People v. Cunningham, supra,* does not involve a statutory construction analysis of the pertinent provisions of the Revised Judicature Act that are the subject of this case, such as MCL 600.4801, 600.8103, 600.8104, 600.8123, 600.8251, 600.8261, 600.8271, 600.8379, 600.8621, MCR 8.201, or MCL 141.261 et seq.

5. The primary issue in the case at bar is whether Huntington Woods and Pleasant Ridge are funding units of the 45th District Court and are statutorily required to annually fund the expenses of the 45th District Court; and the second issue in the case at bar is whether the subject court building and court retiree health care assessments were fees or costs subject to distribution to the funding units under MCL 600.8379, not whether the District Court had the authority to impose costs under the Code of Criminal Procedure.

6. The authority of the District Court to impose specified fees for the court building and court retiree health care expenses is not an issue in the underlying case, and therefore cannot be raised on appeal.

7. It is the District Court that assesses penalties, costs, and fees in individual cases before the Court, not the City of Oak Park as alleged by the Appellants. However, municipalities may through their legislative powers authorize penalties, costs and fees to be imposed on municipal violations.

8. Assuming arguendo, even if the Court found that the fees were costs, in the Memorandum issued by the Supreme Court on June 25, 2014, the Court clarified that the *People v. Cunningham, supra,* decision does not apply retroactively. **Exhibit 16.**

9. Assuming arguendo, even if the Court found that the fees were costs, in the Memorandum issued by the Supreme Court on June 25, 2014, the Court clarified that the *People v. Cunningham, supra,* decision does not require courts to refund court costs or amend court orders to eliminate court costs that were assessed prior to June 18, 2014.

Neither the *Cunningham* decision nor the statutory amendment of MCL 769.1k have any relevance to the interpretation of MCL 600.4801. The Court of Appeals correctly held that:

> We find no merit to plaintiffs' argument that the Legislature's recent amendment of MCL 769.1k supports their position that the retiree health care assessment and building assessment are actually costs subject to distribution. MCL 769.1k addresses a trial court's authority to impose costs when sentencing a criminal defendant. Therefore, the decision in *People v. Cunningham*, *supra*, is inapplicable to this case at bar and Appellants' reliance thereon is misplaced.

Therefore, for the reasons set forth above, the Court of Appeals and Trial Court correctly held that the fees assessed for Court building improvements and for Court retiree healthcare are not fines or costs subject to a one-third distribution to Appellants per MCL 600.8379. Because the decision of the Court of Appeals was not clearly erroneous, leave to appeal should be denied by this Court.

RELIEF REQUESTED

WHEREFORE, the reasons set forth in the above Response to Application for Leave to Appeal, Appellee, CITY OF OAK PARK, respectfully requests that this Honorable Court deny the Application for Leave to Appeal.

SECREST WARDLE

BY: /s/Nancy Cooper Green
WILLIAM P. HAMPTON (P 14591)
NANCY COOPER GREEN (P 39215)
Attorneys for City of Oak Park
2600 Troy Center Drive, P.O. Box 5025
Troy, MI 48007-5025
(248) 851-9500

Date: August 20, 2015

INDEX TO EXHIBITS